Department of Commerce

Innovation is in our nature.

GUIDELINES

FOR

Emergency Solutions Grant (ESG)

Funded through the
Housing Assistance Unit
Community Services and Housing Division
Department of Commerce
January 2014

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Emergency Solutions Grant Program

Guidelines

1. Program Overview

The Emergency Solutions Grant (ESG) Program is funded by the Department of Housing and Urban Development (HUD) Homeless Emergency Assistance and Rapid Transitions to Housing Act of 2009 (HEARTH Act). Program regulations are established in the HUD ESG Interim Rule (ESG Program and Consolidated Plan Conforming Amendment of 24 CFR Parts 91 and 576, Docket No. FR-5474-I-01, RIN 2506-AC29). The Department of Commerce is a grantee of HUD and will administer this award for eligible counties and cities that are not direct grantees of HUD. All Commerce grantees and subgrantees must follow all applicable sections of the ESG Interim Rule as established in these Commerce ESG Guidelines. In these guidelines the term "grantee" refers to the lead ESG grantee of Commerce and any subgrantees. While reading the HUD ESG Interim Rule it is important to note the "recipient" in this case is the Department of Commerce and the "subrecipient" is the lead ESG grantee (including any subgrantees) of Commerce. Furthermore, not every section in the HUD ESG Interim Rule applies to Commerce-administered ESG. The Commerce ESG Guidelines define eligible activities and populations to be served (including additional required documentation) which are subsets of what is listed in the ESG Interim Rule.

The purpose of the ESG program is to provide homelessness prevention assistance to persons who would otherwise become homeless and to provide assistance to rapidly re-house persons who are experiencing homelessness. The funds will provide for a variety of services, including: *Short-Term or Medium-Term Rental Assistance, Utility Assistance, Housing Search and Placement,* and *Housing Stability Case Management*. All ESG-funded projects are required to participate in the local centralized coordinated assessment system if such a system has been developed in your county.

These guidelines will be updated as necessary throughout the grant period. Check out www.commerce.wa.gov/ESG frequently to ensure you are referencing the latest version of the guidelines and program information and to access all of the attached documents for these Guidelines.

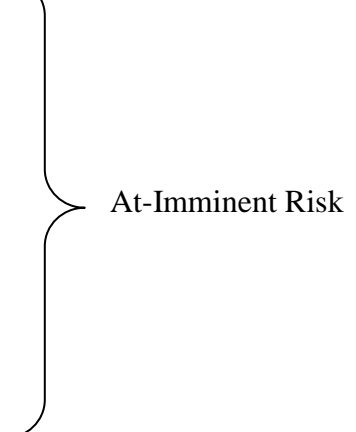## 2. Eligibility - Who can Receive Assistance with ESG Funds?

Based on the head of household's *"Housing Status"* at the time of ESG program entry in the local Homeless Management Information System (HMIS) there are two options for receiving ESG assistance:

1. *"At-Imminent Risk of Literal Homelessness* or *At-Risk of Homelessness"* – **Prevention Assistance**

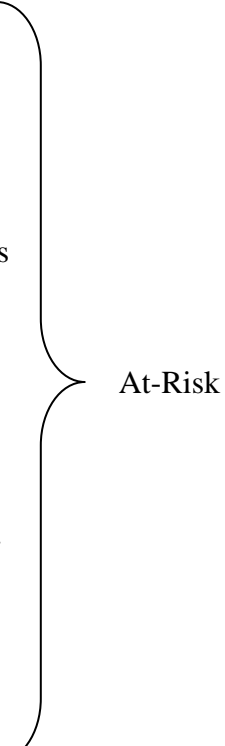2. *"Literally Homeless"* – **Rapid Re-Housing Assistance**

Prevention – for Households At-Risk or at Imminent-Risk of Homelessness

Prevention assistance is available for households who are <u>at-risk or at-imminent risk of homelessness</u> according to HUD's definition below.

Households who:

1. have annual incomes below 30% AMI; **AND**

2. do not have sufficient resources or support networks immediately available to obtain permanent housing and prevent literal homelessness; **AND**

3. Either:

   a. will imminently lose their primary nighttime residence within 14 days; OR

   b. are fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or other dangerous or life threatening conditions related to violence

   > At-Imminent Risk

<u>OR</u>

1. have annual incomes below 30% AMI; **AND**

2. do not have sufficient resources or support networks immediately available to obtain permanent housing and prevent literal homelessness; **AND**

3. meet at least one of the following six conditions:

   i. Moved 2 or more times due to economic reasons in 60 days prior to application for assistance

   ii. Living in the home of another due to economic hardship

   iii. Losing housing within 21 days after application date

   iv. Living in a hotel/motel <u>not</u> paid for by charitable organizations or federal/state/local government programs

   v. Living in severely overcrowded unit as defined by the U.S. Census Bureau (*single-room occupancy or efficiency apartment unit in which more than two persons, on average, reside or another type of housing in which there reside more than 1.5 persons per room*)

   vi. Exiting publicly funded institution or system of care

   > At-Risk

Rapid Re-Housing assistance is available for persons who are <u>literally homeless*</u> according to HUD's definition below.

An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

1. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; **OR**

2. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); **OR**

3. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

*This includes literally homeless individuals/families fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or other dangerous or life threatening conditions related to violence

Compliance with HMIS Data Standards

The ESG Notice requires all grantees to collect data on clients receiving ESG assistance via the Homeless Management Information System (HMIS) run by the Continuum of Care (CoC). Data collection must be compliant with HUD's HMIS Data Standards. "Income and Source" is a Program-Specific data element listed in the Standards because this data is needed to complete APRs for both ESG and CoC programs.

The HMIS standards require that grantees enter income sources and amounts and non-cash benefits received in the past 30 days during three points in time - at entry into program, at exit from the program and at least once annually if the household is in the program over a year. The amount documented through this calculation should NOT be used to determine eligibility, but rather can be used to show that the household does lack resources to maintain housing.

3. Documentation

In order to receive Prevention or Rapid Re-Housing assistance, households must have the following*:

*All of this information must be clearly noted and documented in the client's case file.

1. *Initial Consultation & Eligibility Determination:*

   The household must receive an initial consultation and eligibility assessment to determine income and housing status eligibility and the appropriate type of assistance needed to regain stability in permanent housing.

2. *Assistance in obtaining mainstream and other resources:*

   The household must receive appropriate supportive services and referrals essential to achieving independent living through other federal, state, local, and private assistance.

3. *Housing stability plan to include:*

   i.   Needs assessment to include specific housing and self-sufficiency goals; and
   ii. Action steps to retain permanent housing after ESG assistance ends;

   Households receiving assistance from a victim service provider may be exempted from the case management requirement.

Prevention and Rapid Re-Housing Status

See required *ESG Household Eligibility – Prevention* and *ESG Household Eligibility – Rapid Re-Housing* forms for documentation requirements. All ESG forms can be found on the website www.commerce.wa.gov/esg.

Re-Evaluation

Household eligibility and the types and amounts of assistance the household needs must be re-evaluated and documented not less than once every 3 months for households receiving homelessness prevention assistance, and not less than once annually for households receiving rapid re-housing assistance. At a minimum, each re-evaluation of eligibility must establish that:

1. The household does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD; **AND**

2. The household lacks sufficient resources and support networks necessary to retain housing without ESG assistance.

See required *ESG Household Eligibility – Re-Evaluation* form for documentation requirements.

Definition

Income is money that is paid to, or on behalf of, the head of household or spouse (even if temporarily absent) or to any other household member 18 years or older. (Persons fleeing domestic violence do not have to report the abuser's income.) Income also includes all amounts which are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date. When determining the annual income of an individual or family, the grantee must use the standard for calculating annual income under 24 CFR 5.609.

Inclusions

The following types of income "inclusions" must be counted when calculating current **gross** income:

- Earned income
- Self-Employment/Business Income
- Interest & Dividend income
- Pension/Retirement income
- Unemployment & Disability income
- TANF/Public Assistance
- Alimony and child support income
- Armed Forces income

Exclusions

- Income of children (under 18)
- Inheritance and insurance income
- Medical expense reimbursement
- Income of live-in aides
- Certain state payments regarding disability
- Student financial aid
- Armed Forces Hostile Fire pay

Annualizing Wages and Periodic Payments

When calculating income based on hourly, weekly, or monthly payment information, add the gross amount earned in each payment period that is documented and divide by the number of payment periods. This provides an average wage per payment period. Depending on pay periods used by the employer or the schedule of periodic payments, the following calculations convert the average wage into annual income:

- Hourly Wage multiplied by Hours Worked per Week multiplied by 52 weeks
- Weekly Wage multiplied by 52 weeks

- Bi-Weekly (every other week) Wage multiplied by 26 bi-weekly periods

- Semi-Monthly Wage (twice a month) multiplied by 24 semi-monthly periods
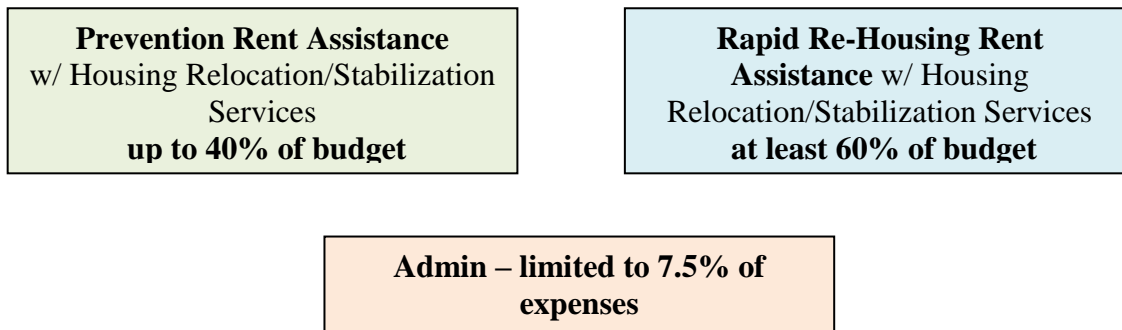- Monthly Wage multiplied by 12 months

The definition of income reflects a household's income at the time they are seeking assistance. Accordingly, documents and information collected to verify income should be recent. Documentation dated within 30 days is acceptable. However, for public assistance benefits, (e.g., SSI, food stamps), a benefits statement received any time within the twelve months prior to the time of application and reflecting current benefits received by a household is allowed. This includes a printout of a client's benefits record in the DSHS Benefits Verification System (see Appendix C). A copy of a recent bank statement indicating direct deposit is also acceptable.

Range of Documentation Types in Order of Preference

- Third Party – Source
- Third Party – Written
- Third Party – Oral
- Self Certification

4. Eligible Program Expenses – What can ESG Pay for?

There are three categories of eligible grant expenses, described in detail below:

Prevention Rent Assistance w/ Housing Relocation/Stabilization Services **up to 40% of budget**	**Rapid Re-Housing Rent Assistance** w/ Housing Relocation/Stabilization Services **at least 60% of budget**

Admin – limited to 7.5% of expenses

Rental Assistance for both Prevention and Rapid Re-Housing can include the following types:

- Monthly Tenant-based or Project-based Rental Assistance (see requirements below)

- Application fees that is charged by the owner to all applicants

- Security deposit that is equal to no more than 2 months' rent

- Last month's rent (paid to the owner of housing at the time of the security deposit and first month's rent are paid) that does not exceed one month's rent and must be included in calculating

the program participant's total rental assistance, which cannot exceed 24 months during any 3-year period

- Utility payments - up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period

  - Utility-only assistance can be provided under very limited circumstances and must be documented using the *ESG Utility Assistance* form. Grantee must confirm that no other utility assistance, such as LIHEAP, is available to prevent the shut-off. For example, if the household is going to have to abandon the housing due to a lack of utilities and can avoid moving to a shelter by having utilities paid, then ESG funds may be used for this purpose. Under another scenario, a household's lease may include a provision requiring utilities be maintained for the unit by the tenant. As a result, a utility shut-off could constitute a lease violation, thus placing the household at risk for eviction. In both cases, it is the grantee responsibility to confirm and document in the case file that the utility company will in fact shut-off the utility if the amount due is not paid.

- Moving costs - reasonable moving costs such as truck rental and hiring a moving company are also allowable. May include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.

  - ESG is not a reunification or relocation program and assistance for moving costs related to reuniting households with family members is not eligible unless the participant can live with the family member permanently. If the ESG assisted household has been assessed and determined to meet all eligibility criteria and they have permanent affordable housing identified in another location, funds may be used to pay for reasonable moving costs to another location. However, note that transportation costs (including bus, train, and airplane tickets) for households are not eligible.

Rental Assistance Requirements

The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family

Types and length of assistance:

Type	Length
Short Term	Up to 3 months
Medium Term	4 to 24 months
Payment of Rental Arrears	Onetime payment up to 6 months, including any late fees on arrears
Any combination of the three types above	Total not to exceed 24 months during any 3 year period, including any payment for last month's rent

Short-term Rental Assistance – Costs may not exceed rental costs accrued over a period of 1 to 3 months.

Medium-term Rental Assistance – Costs may not exceed rental costs accrued over a period of 24 months.

Rental Arrears – Rental assistance may also be used to pay for up to 6 months of rental arrears. Rental arrears may be paid if the payment enables the household to remain in the housing unit for which the arrears are being paid or move to another unit. In cases where an eviction cannot be prevented, rental arrears can still be paid if it satisfies the grievance with the evicting landlord and thereby allows the household to obtain different housing. If ESG funds are used to pay rental arrears, arrears must be included in determining the total period of the household's rental assistance, which may not exceed 24 months.

Use with Other Subsidies

Financial assistance cannot be provided to a household who is receiving the same <u>type</u> (as listed beginning on page 6 above) of assistance through other public sources.

Note: Rental arrears can be paid on behalf of a household receiving a subsidy from another public program (e.g., Section 8) because it represents a different time period and cost type than the rental subsidy (i.e., the arrears represents a back payment of the household portion, and the current rental assistance is a forward payment).

Rental Assistance Agreement

The grantee may make rental assistance payments only to an owner with whom the grantee has entered into a rental assistance agreement. The rental assistance agreement must set forth the terms under which rental assistance will be provided, including the requirements that apply under this section. The rental assistance agreement must provide that, during the term of the agreement, the owner must give the grantee a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant.

The grantee must make timely payments to each owner in accordance with the rental assistance agreement. The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The grantee is solely responsible for paying late payment penalties that it incurs with non-ESG funds.

Lease Requirements

<u>Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit</u>, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are

sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. For program participants living in housing with project-based rental assistance (described below) the lease must have an initial term of one year.

Tenant-based Rental Assistance

A program participant who receives tenant-based rental assistance may select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements.

The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if: the program participant moves out of the housing unit for which the program participant has a lease; the lease terminates and is not renewed; or the program participant becomes ineligible to receive ESG rental assistance.

Project-based Rental Assistance

If the grantee identifies a permanent housing unit that meets ESG requirements and becomes available before a program participant is identified to lease the unit, the grantee may enter into a rental assistance agreement with the owner to reserve the unit and subsidize its rent in accordance with the following requirements:

(1) The rental assistance agreement may cover one or more permanent housing units in the same building. Each unit covered by the rental assistance agreement ("assisted unit") may only be occupied by program participants, except as provided under paragraph (4) of this section.

(2) The grantee may pay up to 100 percent of the first month's rent, provided that a program participant signs a lease and moves into the unit before the end of the month for which the first month's rent is paid. The rent paid before a program participant moves into the unit must not exceed the rent to be charged under the program participant's lease and must be included when determining that program participant's total rental assistance.

(3) The grantee may make monthly rental assistance payments only for each whole or partial month an assisted unit is leased to a program participant. When a program participant moves out of an assisted unit, the grantee may pay the next month's rent, i.e., the first month's rent for a new program participant, as provided in paragraph (2) of this section.

(4) The program participant's lease must not condition the term of occupancy to the provision of rental assistance payments. If the program participant is determined ineligible or reaches the maximum number of months over which rental assistance can be provided, the grantee must suspend or terminate the rental assistance payments for the unit. If the payments are suspended, the individual or family may remain in the assisted unit as permitted under the lease, and the grantee may resume payments if the individual or family again becomes eligible and needs further rental assistance. If the payments are terminated, the rental assistance may be transferred to another available unit in the same building, provided that the other unit meets all ESG requirements.

(5) The rental assistance agreement must have an initial term of one year. When a new program participant moves into an assisted unit, the term of the rental assistance agreement may be extended to cover the initial term of the program participant's lease. If the program participant's lease is renewed, the rental assistance agreement may be renewed or extended, as needed, up to the maximum number of months for which the program participant remains eligible. However, under no circumstances may the grantee commit ESG funds to be expended beyond the expenditure deadline or commit funds for a future ESG grant before the grant is awarded.

Conflicts of Interest

The payment of any type or amount of ESG assistance may not be conditioned on a household's acceptance or occupancy of housing owned by the grantee or a parent or subsidiary of the grantee. No grantee may, with respect to households occupying housing owned by the grantee, or any parent or subsidiary of the grantee, carry out the initial consultation and eligibility determination or administer homelessness prevention assistance.

Allowable Rent Assistance Models

The rent assistance model must be consistent for all households within each individual program. Each program (defined by program type and location designated a unique row on the housing inventory chart) is allowed only one model, and rent assistance calculations must be documented in the client file. An agency may employ more than one model, but only one model may be used per program.

The allowable models:

1. Flat Rate: The subsidy is a set amount each month for all households (e.g., all households get a maximum of $200 each month).

2. Household income: Household rent share is based on a specific percentage of household income (e.g., 30 percent, 40 percent, 50 percent). ESG does NOT mandate any specific tenant contribution.

3. Percentage of the rent: Household rent share is a pre-set percentage of the rent (e.g., all households must pay 75% of their rent).

4. Graduated subsidy: Whether income-based or fixed, the subsidy declines in "steps" based upon a fixed timeline or when the individual has reached specific goals, until the household assumes full responsibility for monthly housing costs. The steps are known (and documented) in advance and act as deadlines for increasing income.

Grantee ESG policies and/or procedures for *rent assistance* must include, at a minimum:

1. A clear description of the model, rent subsidy/household's share of rent and utilities and how it is calculated;
2. Any minimum lease periods (e.g., a year's lease) that may be required;

3. Provisions for handling returned deposits made on behalf of clients; and

4. An explanation of any tenant escrow accounts that may be established for clients.

When rent assistance is based on a household's income, the following ESG policies and/or procedures must include, at a minimum:

1. Minimum tenant payments (if any);

2. How utilities impact a household's subsidy; and

3. Any requirement for households to report changes in income prior to recertification and how changes in income will impact tenant rent share.

Fair Market Rent (FMR)

Rental assistance cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD (http://www.huduser.org/portal/datasets/fmr.html), as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

For purposes of calculating rent under this section, the rent shall equal the sum of the total monthly rent for the unit, any fees required for occupancy under the lease (other than late fees and pet fees) and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.

Rent Reasonableness

The rental assistance paid cannot exceed the actual rental cost, which must be in compliance with HUD's standard of "rent reasonableness."

- "Rent reasonableness" means that the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the owner during the same time period for comparable non-luxury unassisted units.

- To make this determination, the Grantee should consider (a) the location, quality, size, type, and age of the unit; and (b) any amenities, housing services, maintenance and utilities to be provided by the owner. Comparable rents can be checked by using a market study, by reviewing comparable units advertised for rent, or with a note from the property owner verifying the comparability of charged rents to other units owned (for example, the landlord would document the rents paid in other units). For more information, see HUD's worksheet on rent reasonableness at: www.hud.gov/offices/cpd/affordablehousing/library/forms/rentreasonablechecklist.doc.

- A grantee must determine and document rent reasonableness for all units for which ESG rental assistance (including arrears) and/or security deposit assistance is being provided. The

requirement applies whether homelessness prevention assistance or rapid re-housing assistance is provided.

5. Housing Relocation and Stabilization Services for both Prevention and Rapid Re-housing can Include:

Housing Stability Case Management	**Housing Search and Placement**

Housing Stability Case Management

ESG funds may be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a household who resides in permanent housing or to assist a household in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the household is seeking permanent housing and cannot exceed 24 months during the period the household is living in permanent housing. Component services and activities consist of:

- Using the centralized or coordinated assessment system to evaluate households applying for or receiving homelessness prevention or rapid re-housing assistance;
- Conducting the initial evaluation including verifying and documenting eligibility, for households applying for homelessness prevention or rapid re-housing assistance;
- Counseling;
- Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
- Monitoring and evaluating household progress;
- Providing information and referrals to other providers;
- Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
- Conducting re-evaluations

While providing homelessness prevention or rapid re-housing assistance to a program participant, the grantee must: require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability; and develop a plan to assist the program participant to retain permanent housing after the ESG assistance ends, taking into account all relevant considerations, such as the program participant's current or expected income and expenses; other public or private assistance for which the program participant will be eligible and likely to receive; and the relative affordability of available housing in the area.

Housing Search and Placement

Services or activities necessary to assist households in locating, obtaining, and retaining suitable permanent housing, include the following:

- Assessment of housing barriers, needs, and preferences;

- Development of an action plan for locating housing;

- Housing search;

- Outreach to and negotiation with owners;

- Assistance with submitting rental applications and understanding leases;

- Assessment of housing for compliance with ESG requirements for habitability, lead-based paint, and rent reasonableness;

- Assistance with obtaining utilities and making moving arrangements; and

- Tenant counseling.

Administrative Expense

Up to 7.5 percent of total reimbursed costs over the course of the grant period may be used for administration and must be shared between the Lead Grantee and any Subgrantees.   This limit will be monitored on a monthly basis and must be reconciled before the end of the grant period.

Allowable administrative costs are those costs that benefit the organization as a whole. They include the following: executive director/accounting/human resources/IT salaries, benefits, office supplies and equipment; general organization insurance; organization wide audits; board expenses; organization-wide membership fees and dues. This list is not all-inclusive.

Administrative expenses cannot be billed by equal monthly distributions of the budget amount. These costs must be charged to grant cost centers by one of the three following methods:

1. They can be billed directly such as IT services that are billed by the hour;

2. They can be allocated by means of a cost allocation plan; or

3. They can be charged by use of an indirect cost rate which has been appropriately negotiated and approved.

6. Housing Inspections and Lead-based Paint Inspections

Housing Inspections

Grantees providing rental assistance are required to conduct initial inspections of housing units for clients receiving either Rapid Re-Housing or Prevention Assistance, including assistance that is limited to rental arrears in current housing units. Lead-based paint visual inspections may also be required (see below).

The unit must pass inspection before the subsidy is paid. Inspections less than 12 months old performed by other housing providers can be used. Complete records of inspections and follow-up actions must be maintained in the household file.

Grantees may adopt the HUD Housing Quality Standards (HQS) inspection procedures or the Habitability Standards below. If HQS is adopted, inspectors must be certified.

Habitability Standards:

- ✓ *Structure and materials.* The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.

- ✓ *Space and security.* Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.

- ✓ *Interior air quality.* Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.

- ✓ *Water supply.* The water supply must be free from contamination.

- ✓ *Sanitary facilities.* Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.

- ✓ *Thermal environment.* The housing must have any necessary heating/cooling facilities in proper operating condition.

- ✓ *Illumination and electricity.* The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.

- ✓ *Food preparation.* All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.

- ✓ *Sanitary conditions.* The housing must be maintained in a sanitary condition.

- ✓ *Fire safety.*
  - o There must be a second means of exiting the building in the event of fire or other emergency.
  - o Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system

designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

- o The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

Commerce does not exempt units from having to be compliant with local housing codes. Therefore, if there are requirements that are in both the local housing code and the Habitability Standards above, the grantee must comply with the more stringent of the two.

Lead-based Paint Visual Assessments

The lead-based paint visual assessment requirement exists to protect vulnerable families from potential health hazards. To prevent lead poisoning in young children, grantees must comply with the Lead-based Paint Hazard Reduction Act of 1992 and its applicable regulations found at 24 CFR 35, subparts A, B, H, J, K, M, and R.

A lead-based paint visual assessment must be completed for all units that meet the three following conditions:

1. The household moving into or remaining in their current unit is receiving ESG financial assistance. **AND**

2. The unit was constructed prior to 1978. **AND**

3. A child under the age of six or a pregnant woman is, or will be, living in the unit.

A visual assessment must be conducted prior to providing ESG financial assistance to the unit and on an annual basis thereafter (as long as assistance is provided). Visual assessments must be conducted by a HUD-Certified Visual Assessor and must be documented on the HQS or HSS and maintained in the client file.

Exceptions to the Lead-based Paint Visual Assessment Requirement

There are certain exceptions to the requirement. Visual assessments are not triggered under the following circumstances:

1. It is a zero-bedroom or SRO-sized unit;

2. X-ray or laboratory testing of all painted surfaces by certified personnel has been conducted in accordance with HUD regulations and the unit is officially certified to not contain lead-based paint;

3. The property has had all lead-based paint identified and removed in accordance with HUD regulations;

4. The unit has already undergone a visual assessment within the past 12 months –obtain documentation that a visual assessment has been conducted; or

5. It meets any of the other exemptions described in 24 CFR Part 35.115(a).

If any of the conditions outlined above are met, grantees need to document the condition.

7. Data Collection

Federal rules require each grantee to enter ESG client data into a Homeless Management Information System (HMIS). Data must be collected in accordance with the Data Collection Directives (Appendix A) and the Agency Partner HMIS Agreement (see Appendix B).

Each grantee must follow all state and federal laws governing HMIS, including collecting informed written consent from program participants, not denying service based solely on program participant refusal to provide data to an HMIS, protecting program participant confidentiality, not collecting personally identifying information from program participants that are victims of domestic violence, and other requirements defined in RCW 43.185C.030, 43.185C.180, and VAWA Reauthorization Section 605.

Program participant data collected by HMIS systems will be transmitted to Commerce and then sent to DSHS for additional analysis. Written program participant consent forms should reflect this data transmittal. Program participant data will be used for research purposes only and only viewed by research staff and HMIS system administrators. Program participant data will not be disclosed to staff involved in determining program eligibility, or used in any way to determine program eligibility.

8. Termination of Participation, Denial and Grievance Procedures

Grantees must have written termination, denial, and grievance policies and/or procedures. The policies and/or procedures should be readily available to households either in written information or by posting the policy in a public place. It is important to effectively communicate these policies and/or procedures to households and ensure that they are fully understood.

Termination of Participation and Grievance

Causes for termination may include, but are not limited to, failure to abide by any agreed upon requirements and client fraud. A grievance procedure must include:

1. Written notice to the household containing a clear statement of the reasons for termination;

2. A review of the decision, in which the household is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision. This may include the household's right to question or confront staff involved; and

3. Prompt written notice of the final decision.

Denial and Grievance

Causes of denial of assistance include, but are not limited to, the household's ineligibility or failure to provide verifiable evidence of eligibility, etc. Established procedures should describe:

1. Circumstances in which a household may not qualify or would be denied;

2. Notification of denial; and

3. A household's right to review a grantee's decision.

9. Confidentiality of Client Records

Grantees must have policies and/or procedures to ensure that client records are maintained in a confidential manner as per RCW 43.185C.030 and keep written records or files pertaining to households under lock and key with designated personnel granted access to those files.

10. Summary List of Required Policies and Procedures

- ✓ For coordination among homeless housing and assistance providers and mainstream service providers in their service area.
- ✓ For determining and prioritizing which households will receive Rapid Re-Housing and Prevention Assistance
- ✓ Standards for determining amount of rent assistance, length of assistance and if there will be any adjustments over time
- ✓ Standards for determining type, amount, and duration of housing relocation and stabilization services
- ✓ Termination of participation, denial, and grievance procedures
- ✓ Confidentiality of client records

11. Billing Procedures

Lead Grantees must bill Commerce on a monthly or quarterly basis for reimbursement of allowable costs using an ESG Invoice Form. Exceptions to the single billing per month can be made by Commerce on a case-by-case basis. Invoices are due on the 20th of month following the provision

of services. (Final invoices for a biennium may be due sooner than the 20th for the final report month.) If the Lead Grantee fails to file an invoice within a three-month period without a reasonable explanation Commerce will suspend payments, notify the Lead Grantee and take follow-up action that may include terminating the grant agreement.

Invoices require a report(s) generated by HMIS for ESG client data with each submission. Invoice vouchers will not be paid until the report(s) are received and verified. See *ESG Invoice Form and Instructions* for report instructions.

Appendix A - Data Collection Directives

Client Records and Record Retention
Grantees must enter a record for every client served with ESG funds in the state homeless data warehouse (usually referred to as "HMIS") or in a local data collection system that meets HUD/HMIS data standards. The client record may contain personally identifying data or it may not, depending on whether the client provided informed, written consent to have their identifiers stored in HMIS. As a general rule, Commerce does not want personal identifiers for any client who identifies themselves as a victim of domestic violence, sexual assault, dating violence or stalking.

Agencies must develop and adopt policies governing the retention of paper records containing personally identifying information derived from a Homeless Management Information system. The policy must define how long paper records are retained after they are no longer being actively utilized, and the process that will be used to destroy the records to prevent the release of personally identifying information. The policy must require the destruction of the paper records derived from an HMIS no longer than seven years after the last day the person was served by the organization.

Funding Decisions & Data Collection
Lead Grantees must not make funding or resource allocation decisions of ESG funds based on whether a Subgrantee enters *personal identifiers* for victims of domestic violence, sexual assault, dating violence or stalking or other clients who have not provided informed, written consent. The intent of this guideline is to ensure that clients do not feel coerced into providing consent to share data at any time in any local jurisdiction receiving CHG funds and participating in HMIS.

Data quality is of high concern for purposes of accurate reporting out of HMIS. Commerce recommends that local jurisdictions continue to strive for increased data quality including   1) monitoring completeness of required data elements and 2) monitoring responsible use of HMIS at local agencies. Some suggestions for how to appropriately include data quality in HMIS as a part of local funding decisions include, but are not limited to:

- ✓ Completeness of required data elements:

  - Exclude clients who "refused consent" from the equation
    e.g.: Instead of $\dfrac{\text{\# NULL values}}{\text{All client records}} =\%$ use $\dfrac{\text{\#NULL values}}{\substack{\text{Clients who DIDN'T} \\ \text{refuse consent}}} =\%$

- ✓ Responsible use of HMIS at local agencies:

  - Develop a "baseline" rate of "refused consent" locally using HMIS data

  - Determine each agency's rate of "refused consent" as a % deviation from the standard

  - Add or subtract points for less or more deviation from the standard rate, depending on reasonableness

- Further training, technical assistance, or other guidance may be more appropriate in this situation instead of, or in addition to, penalties assessed during funding competitions

All local jurisdictions interested in including a measure of HMIS data quality as part of a local funding decision for CHG funding are required to submit a proposal to Commerce for final approval prior to being used in local applications/competitions for funding.

> **Informed Consent** – According to RCW 43.185C.180, personally identifying information about homeless individuals for the Washington homeless client management information system may only be collected after having obtained informed, reasonably time limited, (i) written consent from the homeless individual to whom the information relates, or (ii) telephonic consent from the homeless individual, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. Safeguards consistent with federal requirements on data collection must be in place to protect homeless individuals' rights regarding their personally identifying information. Data collection under this subsection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals receive: (i) information about the expected duration of their participation in the Washington homeless client management information system; (ii) an explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information; (iii) an explanation regarding whom to contact in the event of injury to the individual related to the Washington homeless client management information system; (iv) a description of any reasonably foreseeable risks to the homeless individual; and (v) a statement describing the extent to which confidentiality of records identifying the individual will be maintained.

Personal Identifiers – "Personally Identifying Data"
 Individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, could include:

- ✓ A first and last name;

- ✓ A home or other physical address;

- ✓ Contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

- ✓ A social security number; and

- ✓ Any other information, including date of birth, racial or ethnic background, or religious affiliation that, in combination with any other non-personally identifying information, would serve to identify any individual collecting "non-identified" client records.

Data Entry for "Non-identified" Client Records

- ✓ Leave the "Name" fields NULL (blank). Do not write in names *such as "Anonymous" or "Refused" as that will compromise data quality at the state level.*

- ✓ *If there are no personal identifiers* for a client record, there needs to be an "Agency Unique ID" of some sort created and stored in the system that can be used by the agency to access the record at a later time (and should not be an algorithm of elements that can lead to the client's identification).

- ✓ Enter an approximate year of birth – subtract or add one to three years to the actual year of birth.

- ✓ Enter "Refused" for gender, race, and ethnicity when the real answers to those questions, in combination with other data, can potentially lead to identification of the client.

- ✓ Enter any additional answer to the universal, program-specific and optional data elements (from the March 2010 HMIS Data Standards) only if the answers to those questions, in combination with other data, will not lead to the identification of the client.

- ✓ Program Entry Date, Program Exit Date and Service Date are generally required unless those elements can be used in combination with other elements to identify the client. If this is the case, please enter an approximate Program Entry Date, Program Exit Date and Service Date by adding one to three months to the actual dates and keeping the "Length of Stay" (the number of days between program entry and program exit) consistent with reality. Keeping the approximate service date, if used, within the actual service date's reporting period is also recommended.

Submitting data to the state data warehouse – If a grantee is not entering data directly into the state data warehouse, the data being entered into the local HMIS must be submitted on a quarterly basis no later than the 10th day following the end of each quarter to the state data warehouse via the HUD Standard 3.0 XML schema.

The Homeless Management Information System ("HMIS") is a client management system that maintains information regarding the characteristics and service needs of Clients for a variety of reasons, including the provision of more effective and streamlined services to Clients and the creation of information that communities can use to determine the use and effectiveness of services.

Ultimately, when used correctly and faithfully by all involved parties, the HMIS is designed to benefit multiple stakeholders, including provider agencies, persons who are homeless, funders and the community through improved knowledge about people who are homeless, their services and service needs and a more effective and efficient service delivery system.

The Homeless Housing and Assistance Act of 2005 requires the Department of Commerce to collect HMIS data in the form of a data warehouse. Each homeless service provider will submit HMIS data to Commerce.

Agency and the Department of Commerce agree as follows:

1.   **General Understandings:**

   a.   In this Agreement, the following terms will have the following meanings:

       (i)   "Client" refers to a consumer of services;

       (ii)   "Partner Agency" refers generally to any Agency participating in HMIS.

       (iii) "Agency staff" refers to both paid employees and volunteers.

       (iv)   "HMIS" refers to the HMIS system administered by Commerce.

       (v)   "Enter(ing)" or "entry" refers to the entry of any Client information into HMIS.

       (vi)   "Shar(e)(ing)," or "Information Shar(e)(ing)" refers to the sharing of information which has been entered in HMIS with another Partner Agency.

       (vii) "The Balance of State Continuum of Care Steering Committee" or "Steering Committee" refers to a Commerce advisory body that serves in a consultative and counseling capacity to Commerce as the system administrator. The Steering Committee is comprised of representatives from the State, the Balance of State Continuum of Care regions and at large members.

       (viii) "Identified Information" refers to Client data that can be used to identify a specific Client. Also referred to as "Confidential" data or information.

       (ix)   "De-identified Information" refers to data that has specific Client demographic information removed, allowing use of the data *without identifying* a specific Client. Also referred to as "non-identifying" information.

   b.   Agency understands that when it enters information into HMIS, such information will be available to Commerce staff who may review the data to administer HMIS; to conduct analysis in partnership with the Research and Data Analysis (RDA) division at the Department of Social and Health Services (DSHS); and to prepare reports that may be

submitted to others in de-identified form *without* individual identifying Client information.

c. Agency understands that Agency will have the ability to indicate whether information Agency entered into HMIS may be shared with and accessible to Partner Agencies in HMIS system. Agency is responsible for determining and designating in HMIS whether information may or may not be shared.

2. Confidentiality:

a. Agency will not:

(i) enter information into HMIS which it is not authorized to enter; and

(ii) will not designate information for sharing which Agency is not authorized to share, under any relevant federal, state, or local confidentiality laws, regulations or other restrictions applicable to Client information. By entering information into HMIS or designating it for sharing, Agency represents that it has the authority to enter such information or designate it for sharing.

b. If Agency is a "covered entity" whose disclosures are restricted under HIPAA (45 CFR 160 and 164) or is subject to Federal Drug and Alcohol Confidentiality Regulations (42 CFR Part 2), a fully executed Business Associate or Business Associate/Qualified Service Organization Agreement must be attached to this agreement before information may be entered. Sharing of information will not be permitted otherwise. More information about "covered entities" can be found here: http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/index.html.

c. If Agency is subject to any laws or requirements which restrict Agency's ability to either enter or authorize sharing of information, Agency will ensure that any entry it makes and all designations for sharing fully comply with all applicable laws or other restrictions.

d. Agency shall comply with the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) and Washington State RCW 43.185C.030. No Identified Information may be entered into HMIS for Clients in licensed domestic violence programs or for Clients fleeing domestic violence situations.

e. To the extent that information entered by Agency into HMIS is or becomes subject to additional restrictions, Agency will immediately inform Commerce in writing of such restrictions.

3. Information Collection, Release and Sharing Consent:

a. **Collection of Client Identified information**: An agency shall collect client identified information only when appropriate to the purposes for which the information is obtained or when required by law. An Agency must collect client information by lawful and fair means and, where appropriate, with the knowledge or consent of the individual.

b. **Obtaining Client Consent:** In obtaining Client consent, each adult Client in the household must sign the *HMIS Client Release of Information* (or a Commerce-approved equivalent release document) to indicate consent to enter Client identified information into HMIS. If minors are present in the household, at least one adult in the household must consent minors by writing their names on the *HMIS Client Release of Information*. If any adult member of a household does not provide written consent, identifying information may not be entered into HMIS for *anyone* in the household. An unaccompanied youth may sign the consent form for themselves.

    (i)   Do not enter personally indentifying information into HMIS for clients who are in licensed domestic violence agencies or currently fleeing or in danger from a domestic violence, dating violence, sexual assault or stalking situation.

    (ii)   Telephonic consent from the individual may temporarily substitute written consent provided that written consent is obtained at the first time the individual is physically present at Agency.

    (iii)   A Client may withdraw or revoke consent for Client identified information collection by signing the *HMIS Revocation of Consent*. If a Client revokes their consent, Agency is responsible for immediately contacting Commerce and making appropriate data modifications in HMIS to ensure that Client's personal identified information will not be shared with other Partner Agencies or visible to the Agency staff within the system.

    (iv)   This information is being gathered for the collection and maintenance of a research database and data repository. The consent is in effect until the client revokes the consent in writing.

    (v)   **No Conditioning of Services:** Agency will not condition any services upon or decline to provide any services to a Client based upon a Client's refusal to allow entry of identified information into HMIS.

    (vi)   **Re-release Prohibited:** Agency agrees not to release any Client identifying information received from HMIS to any other person or organization without written informed Client consent, or as required by law.

    (vii)   **Client Inspection/Correction:** Agency will allow a Client to inspect and obtain a copy of his/her own personal information except for information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding. Agency will also allow a Client to correct information that is inaccurate. Corrections may be made by way of a new entry that is in addition to but is not a replacement for an older entry.

c. **Security:** Agency will maintain security and confidentiality of HMIS information and is responsible for the actions of its users and for their training and supervision. Among the steps Agency will take to maintain security and confidentiality are:

d. **Access:** Agency will permit access to HMIS or information obtained from it only to authorized Agency staff who need access to HMIS for legitimate business purposes

(such as to provide services to the Client, to conduct evaluation or research, to administer the program, or to comply with regulatory requirements). Agency will limit the access of such staff to only those records that are immediately relevant to their work assignments.

e.   **User Policy:** Prior to permitting any user to access HMIS, Agency will require the user to sign a ***User Policy, Responsibility Statement & Code of Ethics*** ("User Policy"), which is found on the Commerce web page (www.commerce.wa.gov/hmiswa) and is incorporated into this agreement and may be amended from time to time by Commerce. Agency will comply with, and enforce the User Policy and will inform Commerce immediately in writing of any breaches of the User Policy

f.   **Computers:** Security for data maintained in HMIS depends on a secure computing environment. Computer security is adapted from relevant provisions of the Department of Housing and Urban Development's (HUD) "Homeless Management Information Systems (HMIS) Data and Technical Standards Notice" (Docket No. FR 4848-N-01; see http://www.hud.gov/offices/cpd/homeless/hmis/standards/index.cfm). Agencies are encouraged to directly consult that document for complete documentation of HUD's standards relating to HMIS.

Agency agrees to allow access to HMIS only from computers which are:

- owned by Agency or approved by Agency for the purpose of accessing and working with HMIS.

- protected from viruses by commercially available virus protection software.

- protected with a software or hardware firewall.

- maintained to insure that the computer operating system running the computer used for the HMIS is kept up to date in terms of security and other operating system patches, updates, and fixes.

- accessed through web browsers with 128-bit encryption (e.g., Internet Explorer, version 6.0). Some browsers have the capacity to remember passwords, so that the user does not need to type in the password when returning to password-protected sites. This default shall ***not*** be used with respect to Commerce' HMIS; the end-user is expected to physically enter the password each time he or she logs on to the system.

- staffed at all times when in public areas. When computers are not in use and staff is not present, steps should be taken to ensure that the computers and data are secure and not publicly accessible. These steps should minimally include: logging off the data entry system, physically locking the computer in a secure area, or shutting down the computer entirely.

g. **Passwords:** Agency will permit access to HMIS only with use of a User ID and password, which the user may not share with others. Written information pertaining to user access (e.g. username and password) shall not be stored or displayed in any publicly accessible location.

Passwords shall be at least eight characters long and meet industry standard complexity requirements, including, but not limited to, the use of at least one of each of the following kinds of characters in the passwords: Upper and lower-case letters, and numbers and symbols. Passwords shall not be, or include, the username, or the HMIS name. In addition, passwords should not consist entirely of any word found in the common dictionary or any of the above spelled backwards. The use of default passwords on initial entry into the HMIS application is allowed so long as the .default password is changed on first use. Passwords and user names shall be consistent with guidelines issued from time to time by HUD and/or Commerce.

h. **Training/Assistance:** Agency will permit access to HMIS only after the authorized user receives appropriate confidentiality training including that provided by Commerce. Agency will also conduct ongoing basic confidentiality training for all persons with access to HMIS and will train all persons who may receive information produced from HMIS on the confidentiality of such information. Agency will participate in such training as is provided from time to time by Commerce. Commerce will be reasonably available during Commerce defined weekday business hours for technical assistance (i.e. troubleshooting and report generation).

i. **Records:** Agency and Commerce will maintain records of any disclosures of Client identifying information either of them makes of HMIS information for a period of **seven** years after such disclosure. On written request of a Client, Agency and Commerce will provide an accounting of all such disclosures within the prior **seven**-year period. Commerce will have access to an audit trail from HMIS so as to produce an accounting of disclosures made from one Agency to another by way of sharing of information from HMIS.

j. **Retention of paper copies of personally identifying information:** Agencies must develop and adopt policies governing the retention of paper records containing personally identifying information derived from a Homeless Management Information system. The policy must define how long paper records are retained after they are no longer being actively utilized, and the process that will be used to destroy the records to prevent the release of personally identifying information. The policy must require the destruction of the paper records derived from an HMIS no longer than seven years after the last day the person was served by the organization.

4. **Information Entry Standards:**

a. Information entered into HMIS by Agency will be truthful, accurate and complete to the best of Agency's knowledge.

b. Agency will *not* solicit from Clients or enter information about Clients into the HMIS database unless the information is required for a legitimate business purpose such as to provide services to the Client, to conduct evaluation or research, to administer the program, or to comply with regulatory requirements.

c. Agency will only enter information into HMIS database with respect to individuals that it serves or intends to serve, including through referral.

d. Agency will enter all data for a particular month into HMIS database by the 5th business day of the following month. Additionally, Agency will make every attempt enter all data for a particular week by the end of that week.

e. Agency will not alter or over-write information entered by another Agency.

5. **Use of HMIS:**

a. Agency will not access identifying information for any individual for whom services are neither sought nor provided by the Agency. Agency may access identifying information of the Clients it serves and may request via writing access to statistical, non-identifying information on both the Clients it serves and Clients served by other HMIS participating agencies.

b. Agency may report non-identifying information to other entities for funding or planning purposes. Such non-identifying information shall not directly identify individual Clients.

c. Agency and Commerce will report only non-identifying information in response to requests for information from HMIS unless otherwise required by law.

d. Agency will use HMIS database for legitimate business purposes only.

e. Agency will not use HMIS in violation of any federal or state law, including, but not limited to, copyright, trademark and trade secret laws, and laws prohibiting the transmission of material, which is threatening, harassing, or obscene.

f. Agency will not use the HMIS database to defraud federal, state or local governments, individuals or entities, or conduct any illegal activity.

6. **Proprietary Rights of the HMIS:**

a. Agency shall not give or share assigned passwords and access codes for HMIS with any other Agency, business, or individual. Each user shall request their own login and password.

b. Agency shall take due diligence not to cause in any manner, or way, corruption of the HMIS database, and Agency agrees to be responsible for any damage it may cause.

c. Steering Committee: Commerce will consult with the Steering Committee from time to time regarding issues such as revision to the form of this Agreement. Written Agency

complaints that are not resolved may be forwarded to the Steering Committee, which will try to reach a voluntary resolution of the complaint.

d. Limitation of Liability and Indemnification: No party to this Agreement shall assume any additional liability of any kind due to its execution of this agreement of participation in the HMIS. It is the intent of the parties that each party shall remain liable, to the extent provided by law, regarding its own acts and omissions; but that no party shall assume additional liability on its own behalf or liability for the acts of any other person or entity except for the acts and omissions of their own employees, volunteers, agents or contractors through participation in HMIS. The parties specifically agree that this agreement is for the benefit if the parties only and this agreement creates no rights in any third party.

e. Limitation of Liability. Commerce shall not be held liable to any member Agency for any cessation, delay or interruption of services, nor for any malfunction of hardware, software or equipment.

f. Disclaimer of Warranties. Commerce makes no warranties, express or implied, including the warranties or merchandise ability and fitness for a particular purpose, to any Agency or any other person or entity as to the services of the HMIS to any other matter.

7. **Additional Terms and Conditions:**

a. Agency will abide by such guidelines as are promulgated by HUD and/or Commerce from time to time regarding administration of the HMIS.

b. Agency and Commerce intend to abide by applicable law. Should any term of this agreement be inconsistent with applicable law, or should additional terms be required by applicable law, Agency and Commerce agree to modify the terms of this agreement so as to comply with applicable law.

c. Neither Commerce nor Agency will transfer or assign any rights or obligations regarding HMIS without the written consent of either party.

d. Agency agrees to indemnify and hold Commerce and its agents and staffs harmless from all claims, damages, costs, and expenses, including legal fees and disbursements paid or incurred, arising from any breach of this Agreement or any of Agency's obligations under this Agreement.

e. This Agreement will be in force until terminated by either party. Either party may terminate this agreement at will with 20 days written notice. Either party may terminate this agreement immediately upon a material breach of this Agreement by the other party, including but not limited to the breach of the Commerce Security Policy by Agency.

f. If this Agreement is terminated, Agency will no longer have access to HMIS. Commerce and the remaining Partner Agencies will maintain their right to use all of the Client information previously entered by Agency except to the extent a restriction is imposed by Client or law.

g.   Copies of Agency data will be provided to the Agency upon written request of termination of this agreement. Data will be provided on CDs or media. Unless otherwise specified in writing, copies of data will be delivered other mutually agreed upon to Agency within fourteen (14) calendar days of receipt of written requests for data copies.

Appendix C – Data Security Requirements

The words and phrases listed below shall each have the following definitions:

"BVS" means the DSHS Benefit Verification System

"Data Provider" means the entity, Department of Social and Health Services

"Data Recipient" means the entity, Department of Commerce and its grantees which is receiving the Data from the Data Provider

Activity for which the Data is needed - to determine client eligibility

Description of Data - Housing Authority Profile will consist of the following BVS data elements:

Client ID Number

Client First Name

Client Middle Name

Client Last Name

Program Type

Household Number

DSHS Benefit

Earned Income

Unearned Income

Intentional Overpayment Amount

Data Access

Grantees shall access information using personal computers via an Internet connection using an SSL through Fortress 3 to access the DSHS BVS secure website.

Access to this website requires the user to have an e-mail address approved by DSHS. DSHS will provide the initial password and the strong password must be changed to a unique strong password.

Requirements for Access

Access to Data shall be limited to Grantees whose duties specifically require access to the Data in the performance of their assigned duties.

The Grantee shall provide Commerce with a list that contains the names of their staff that will need access to the Data.

The Grantee must immediately notify Commerce when any of their staff or Grantee staff with access to the Data is terminated from employment or when his or her job duties no longer require access to the Data.

Grantee's shall sign the Use and Disclosure requirements form each year and agree to adhere to the use and disclosure requirements.

The signed DSHS Notice of Nondisclosure forms shall be maintained by the Grantee and be submitted to Commerce upon request.

CONFIDENTIALITY AND NONDISCLOSURE

Grantees cannot disclose, transfer, or sell any such information to any party, except as provided by law or, in the case of Personal Information, without the prior written consent of the person to whom the Personal Information pertains

The Data to be shared is confidential in nature and is subject to state and federal confidentiality requirement that bind the Department of Commerce, its staff and their grantees and their staff to protect the confidentiality of the personal information contained in Economic Services Administration data.

Grantees shall maintain the confidentiality of personal data in accordance with state and federal laws, and shall have adequate policies and procedures in place to ensure compliance with confidentiality requirements, including restrictions on re-disclosure.

Grantees shall take reasonable precautions to secure against unauthorized physical and electronic access to client data, which shall be protected in a manner that prevents unauthorized persons, including the general public, from retrieving data by means of computer, remote terminal, or other means.

1. **Data Transport.** When transporting DSHS Confidential Information electronically, including via email, the data will be protected by:

    a. Transporting the data within the (State Governmental Network) SGN or contractor's internal network, or;

    b. Encrypting any data that will be in transit outside the SGN or contractor's internal network. This includes transit over the public Internet.

2. **Protection of Data.** The Grantee agrees to store data on paper only, no electronic storage is allowable:

    a. **Paper documents.** Any paper records must be protected by storing the records in a secure area which is only accessible to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

3. **Data Disposition.** When the contracted work has been completed or when no longer needed, data shall be returned to DSHS or destroyed. Media on which data may be stored and associated acceptable methods of destruction are as follows:

Data stored on:	Will be destroyed by:
Paper documents with sensitive or confidential data	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of data will be protected.
Paper documents containing confidential information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Magnetic tape	Degaussing, incinerating or crosscut shredding

4. **Notification of Compromise or Potential Compromise**. The compromise or potential compromise of DSHS shared data must be reported to Commerce within one (1) business day of discovery.